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IT IS SO ORDERED.

Dated: March 20, 2013



  
Jeffery P. Hopkins  
United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

In Re

**SHANE P. HALL**

Debtor

Case No. 12-10464  
Chapter 13  
Judge Hopkins

**SHANE P. HALL**

Plaintiff

Adversary Case No. 12-1047

vs.

**OHIO RECEIVABLES LLC**

Defendant

MEMORANDUM OF DECISION

In this adversary proceeding, Plaintiff – Debtor, Shane P. Hall, challenges the validity of a judgment lien, under Rule 7001(2), held by the Defendant Ohio Receivables, LLC ("Receivables"). Counsel submitted the action for decision on stipulation of facts and briefs in lieu of an actual trial. See Docs. 14, 17, 18, and 19. The Court appreciates counsels' professionalism and willingness to enter stipulations and to have the matter resolved in this fashion.

The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(a) and (b). This proceeding arises in a case referred to this Court by the Standing Order of Reference entered in this District and is determined to be a core proceeding pursuant to 28 U.S.C. §157(b)(2)(K). The Court is authorized to enter final judgment in this proceeding.

#### STIPULATED FACTS

These are the facts that bear on the disposition of this lawsuit. Receivables obtained a judgment against Hall in the Common Pleas Court of Butler County, Ohio ("State Court"). In an effort to secure the judgment, Receivables filed a one-page praecipe for a certificate of judgment with the clerk of the State Court ("Clerk"). The Clerk wrote "JD2011 06 1754" at the top of the praecipe and stamped the Clerk's seal under that notation. In turn the Clerk recorded the modified document ("Document") in the judgment docket.

#### APPLICABLE STATUTE

According to Ohio Rev. Code § 2329.02, a judgment becomes a lien on real property upon the filing of "a certificate of such judgment" that is "made by the clerk of the court in which the judgment was rendered."<sup>1</sup> According to Mr. Hall, the Document does not satisfy

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<sup>1</sup> Ohio Rev. Code § 2329.02 provides in relevant part:

Any judgment or decree rendered by any court of general jurisdiction . . . within this state shall be a lien upon lands and tenements of each judgment debtor within any county of this state from the time there is filed in the office of the clerk of the court of common pleas of such county a certificate of such judgment, setting forth the court in which the same was rendered, the title and number of the action, the names of the judgment creditors and judgment debtors, the amount of the judgment and costs, the rate of interest, if the judgment provides for interest, and the date from which such interest accrues, the date of rendition of the judgment, and the volume and page of the journal entry thereof.

. . .

Such certificate shall be made by the clerk of the court in which the judgment was rendered, under the seal of said court, upon the order of any person in whose favor such judgment was rendered . . . .

(continued...)

either of these requirements.

### ISSUE

The issue presented is whether the Document constitutes a "certificate" of the Receivables judgment "made" by the Clerk.

### ARGUMENTS

On one hand, the Document contains the information required by statute for identification of the judgment. See § 2329.02("the court in which the same was rendered, the title and number of the action, the names of the judgment creditors and judgment debtors, the amount of the judgment and costs, the rate of interest, if the judgment provides for interest, and the date from which such interest accrues, the date of rendition of the judgment, and the volume and page of the journal entry thereof"). It also contains the required seal of the Clerk. See *id.*

On the other hand, the Document is captioned "Praecipe For Certificate Of Judgment." The body refers to the Document as "this praecipe." Additionally, it contains the language "to the Clerk of Courts: Please prepare and issue a Certificate of Judgement."

According to Mr. Hall, the Document does not comply with the statute because it: (1) does not identify the Document as a "Certificate of Judgment" in the caption; (2) does not contain language in the body of the Document indicating it is a certificate of judgment; and (3) was "made" by Receivables and not the Clerk.

### HOLDING

The Document constitutes a "certificate" of the Receivables judgment "made" by the Clerk.

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<sup>1</sup>(...continued)

When any such certificate is delivered to the clerk of the court of common pleas of any county in this state, the same shall be filed by such clerk, and he shall docket and index it . . . in a judgment docket . . . .

(emphasis added).

ANALYSIS

1. Certificate

Section 2329.02 does not require a document called a "certificate of judgment." It merely requires a "certificate."<sup>2</sup>

The statute does not define the term "certificate." Therefore, the usual, normal, or customary meaning of the word governs. *Gutmann v. Feldman*, 780 N.E.2d 562, 564 (Ohio 2002). Black's Law Dictionary defines a "certificate" as:

1. A document in which a fact is formally attested. 2. A document certifying the bearer's status or authorization to act in a specified way. 3. A notice by one court to another court of the action it has taken.

*Black's Law Dictionary* (9<sup>th</sup> ed. 2009); *see also Gutmann*, 780 N.E.2d at 565 (applying definition of "certificate" in Black's Law Dictionary).

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<sup>2</sup> Ohio Rev. Code § 2329.02 provides in relevant part:

Any judgment or decree rendered by any court of general jurisdiction . . . within this state shall be a lien upon lands and tenements of each judgment debtor within any county of this state from the time there is filed in the office of the clerk of the court of common pleas of such county a certificate of such judgment, setting forth the court in which the same was rendered, the title and number of the action, the names of the judgment creditors and judgment debtors, the amount of the judgment and costs, the rate of interest, if the judgment provides for interest, and the date from which such interest accrues, the date of rendition of the judgment, and the volume and page of the journal entry thereof.

. . .

Such certificate shall be made by the clerk of the court in which the judgment was rendered, under the seal of said court, upon the order of any person in whose favor such judgment was rendered . . . .

When any such certificate is delivered to the clerk of the court of common pleas of any county in this state, the same shall be filed by such clerk, and he shall docket and index it . . . in a judgment docket . . . which shall show as to each judgment all of the matters set forth in such certificate as required by this section.

(emphasis added); *see also* Ohio Rev. Code § 2329.03("without the filing of the certificate provided for in section 2329.02").

The "notice by one court to another court" appears to be the sense in which the term is used in § 2329.02. As such, the Document constitutes a "certificate" under the statute. It is the means by which the Clerk notified herself, in this instance, of the judgment and the need to docket the Document in the judgment docket. The fact that the Clerk docketed the Document in the judgment docket demonstrates that the Document fulfilled the purpose of a certificate under § 2329.02.

## 2. Made by the Clerk

Section 2329.02 requires the certificate to be "made by the clerk of the court in which the judgment was rendered, under the seal of said court." The statute does not define the term "made." The verb "make" means: "to bring (a material thing) into being by forming, shaping, or altering material." *Merriam-Webster Unabridged Dictionary* (online version at <http://unabridged.merriam-webster.com>).<sup>3</sup>

According to this definition, the Clerk "made" the certificate. She took the praecipe provided by Receivables and placed her seal upon it. A seal is a statutory prerequisite for a certificate. See § 2329.02. Therefore, the certificate did not come "into being" until the Clerk "altered" the praecipe by affixing her seal to it.

## CONCLUSION

For the foregoing reasons, the Court concludes that Receivables holds a valid judgment lien under Ohio law. Accordingly, Mr. Hall's complaint (Doc. 1) shall be **DISMISSED** by separate order.

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<sup>3</sup> The *Merriam-Webster Unabridged Dictionary* builds upon *Webster's Third New International Dictionary, Unabridged*, a dictionary frequently cited by the Supreme Court of Ohio.